

AMENDED IN ASSEMBLY JUNE 17, 2002

AMENDED IN SENATE MAY 20, 2002

AMENDED IN SENATE MAY 2, 2002

SENATE BILL

No. 1950

Introduced by Senator Figueroa

February 22, 2002

An act to amend Sections 800, 801, 803.1, ~~805~~, 2001, 2008, 2013, 2020, 2027, 2052, 2227, 2234, 2350, 2507, and 3504 of, to add Sections 802.2, 2135.5, 2220.05, 2220.08, 2246, and 3519.5 to, to add Chapter 1.6 (commencing with Section 920) to Division 2 of, to add and repeal Section 2220.1 of, and to repeal Section 2026 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1950, as amended, Figueroa. Healing arts.

(1) Existing law, the Medical Practice Act, creates the Medical Board of California within the Department of Consumer Affairs. Under the act, the board, consisting of 19 members, is responsible through its Division of Licensing for the licensure of physicians and surgeons, and the practice of medicine without a license issued by the division is punishable as a misdemeanor offense. The act additionally makes the board responsible through its Division of Medical Quality, consisting of 12 members, for the regulation of the practice of physicians and surgeons. Under the act, the board is authorized to employ an executive director and other assistance in discharging its duties. Under existing law, the act's provisions creating the board and authorizing it to employ this assistance become inoperative on July 1, 2003, and are repealed on January 1, 2004.

This bill would extend the dates on which these provisions become inoperative and are repealed to, respectively, July 1, 2005, and January 1, 2006. The bill would increase the membership of the board and its Division of Medical Quality by 2 and would require the Director of Consumer Affairs to retain, prior to March 31, 2003, an enforcement program monitor who would evaluate, for a period of 2 years, the board's disciplinary system and report his or her findings to the Legislature, the board, and the Department of Consumer Affairs. ~~The~~

This bill would revise certain licensure provisions pertaining to out-of-state practitioners and would also revise those provisions to allow a physician and surgeon whose license has been expired for less than 5 years and who meets specified criteria to obtain licensure, without paying fees that would otherwise be associated with issuance of the license. ~~The bill would authorize a diversion program to order a physician and surgeon participating in the program to submit to an examination by a physician and surgeon or a psychologist and would make his or her failure to comply with the order grounds for disciplinary action.~~ The bill would additionally include mental illness as a basis for participation in a diversion program and would revise other diversion program requirements.

This bill would specify, with respect to disciplinary actions, that any proposed decision or decision issued in those proceedings finding that the physician and surgeon has engaged in sexual activity shall contain an order revoking his or her license. The bill would require the board to prioritize its investigative and prosecutorial resources in a specified manner and would require the board and the enforcement program monitor to report in its annual report certain information regarding priority cases. The bill would require that complaints involving quality of care contain certain information and be subject to expert review before being referred for further investigation. The bill would also authorize certain penalties against a licensee who has entered into a stipulation for disciplinary action. The bill would make a person who conspires with or aids or abets another in the unlicensed practice of medicine guilty of a public offense and would increase the punishment that may be imposed for the commission of this offense by allowing imprisonment in the state prison and by increasing the allowable term of imprisonment in a county jail and the maximum amount of the fine.

Because the bill would create a new crime and would increase the allowable term of imprisonment in a county jail, it would impose a state-mandated local program.



(2) The Medical Practice Act provides for licensure of the practice of midwifery by the board's Division of Licensing and requires that the licensed midwife practice under the supervision of a licensed physician and surgeon.

This bill would require the board to adopt emergency regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery.

(3) Existing law, the Physician Assistant Practice Act, creates the Physician Assistant Committee within the Medical Board of California that, in conjunction with the board, licenses and regulates the practice of a physician assistant. The provisions creating the committee become inoperative on July 1, 2003, and are repealed on January 1, 2004.

This bill would extend the dates on which these provisions become inoperative and are repealed to, respectively, July 1, 2007, and January 1, 2008. The bill would authorize the committee, under the name of the board, to issue a probationary license to practice, subject to particular terms and conditions. ~~The bill would also make a physician assistant subject to peer review proceedings.~~

(4) Existing law requires every professional liability insurer to report either to the board or to the Osteopathic Medical Board any settlement over \$30,000, and any arbitration award in any amount of a malpractice claim or action against a physician or surgeon licensed by that board. Existing law also requires the board and the California Board of Podiatric Medicine to disclose to an inquiring member of the public specified information concerning the practice status of their licensees, and the board is additionally required to post this sort of information regarding its licensees on the board's Internet Web site.

This bill would additionally require a professional liability insurer to report a civil judgment in any amount of a malpractice action, whether or not the judgment was subsequently vacated by a settlement, that is not reversed on appeal and would include this information, as well as other specified data, among the items that the board and the California Board of Podiatric Medicine are required to disclose to an inquiring member of the public. The bill would require the board to post on its Internet Web site the material it is required to disclose to any inquiring member of the public and would specify that these materials are not a part of the central file maintained by the board for each of its licensees. *The bill would require the boards to develop certain regulations regarding disclosure, and to notify the licensee and allow for the correction of inaccuracies.* The bill would additionally require an



attorney to serve the board with a copy of a complaint or an arbitration demand in a malpractice action or claim at the time of its filing.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 800 of the Business and Professions
2 Code is amended to read:
3 800. (a) The Medical Board of California, the Board of
4 Psychology, the Dental Board of California, the Osteopathic
5 Medical Board of California, the State Board of Chiropractic
6 Examiners, the Board of Registered Nursing, the Board of
7 Vocational Nursing and Psychiatric Technicians, the State Board
8 of Optometry, the Veterinary Medical Board, the Board of
9 Behavioral Sciences, and the California State Board of Pharmacy
10 shall each separately create and maintain a central file of the names
11 of all persons who hold a license, certificate, or similar authority
12 from that board. Each central file shall be created and maintained
13 to provide an individual historical record for each licensee with
14 respect to the following information:
15 (1) Any conviction of a crime in this or any other state that
16 constitutes unprofessional conduct pursuant to the reporting
17 requirements of Section 803.
18 (2) Any judgment or settlement requiring the licensee or his or
19 her insurer to pay any amount of damages in excess of three
20 thousand dollars (\$3,000) for any claim that injury or death was
21 proximately caused by the licensee's negligence, error or omission
22 in practice, or by rendering unauthorized professional services,
23 pursuant to the reporting requirements of Section 801 or 802.
24 (3) Any public complaints for which provision is made
25 pursuant to subdivision (b).
26 (4) Disciplinary information reported pursuant to Section 805.

1 (b) Each board shall prescribe and promulgate forms on which
2 members of the public and other licensees or certificate holders
3 may file written complaints to the board alleging any act of
4 misconduct in, or connected with, the performance of professional
5 services by the licensee.

6 If a board, or division thereof, a committee, or a panel has failed
7 to act upon a complaint or report within five years, or has found
8 that the complaint or report is without merit, the central file shall
9 be purged of information relating to the complaint or report.

10 Notwithstanding this subdivision, the Board of Psychology, the
11 Board of Behavioral Sciences, and the Respiratory Care Board of
12 California shall maintain complaints or reports as long as each
13 board deems necessary.

14 (c) The contents of any central file that are not public records
15 under any other provision of law shall be confidential except that
16 the licensee involved, or his or her counsel or representative, shall
17 have the right to inspect and have copies made of his or her
18 complete file except for the provision that may disclose the
19 identity of an information source. For the purposes of this section,
20 a board may protect an information source by providing a copy of
21 the material with only those deletions necessary to protect the
22 identity of the source or by providing a comprehensive summary
23 of the substance of the material. Whichever method is used, the
24 board shall ensure that full disclosure is made to the subject of any
25 personal information that could reasonably in any way reflect or
26 convey anything detrimental, disparaging, or threatening to a
27 licensee's reputation, rights, benefits, privileges, or qualifications,
28 or be used by a board to make a determination that would affect a
29 licensee's rights, benefits, privileges, or qualifications. The
30 information required to be disclosed pursuant to Section 803.1
31 shall not be considered among the contents of a central file for the
32 purposes of this subdivision.

33 The licensee may, but is not required to, submit any additional
34 exculpatory or explanatory statement or other information that the
35 board shall include in the central file.

36 Each board may permit any law enforcement or regulatory
37 agency when required for an investigation of unlawful activity or
38 for licensing, certification, or regulatory purposes to inspect and
39 have copies made of that licensee's file, unless the disclosure is
40 otherwise prohibited by law.

1 These disclosures shall effect no change in the confidential
2 status of these records.

3 SEC. 2. Section 801 of the Business and Professions Code is
4 amended to read:

5 801. (a) Every insurer providing professional liability
6 insurance to a person who holds a license, certificate or similar
7 authority from or under any agency mentioned in subdivision (a)
8 of Section 800 (except as provided in subdivisions (b), (c), and (d))
9 shall send a complete report to that agency as to any settlement or
10 arbitration award over three thousand dollars (\$3,000) of a claim
11 or action for damages for death or personal injury caused by that
12 person's negligence, error, or omission in practice, or rendering of
13 unauthorized professional services. The report shall be sent within
14 30 days after the written settlement agreement has been reduced
15 to writing and signed by all parties thereto or within 30 days after
16 service of the arbitration award on the parties.

17 (b) Every insurer providing professional liability insurance to
18 a physician and surgeon licensed pursuant to Chapter 5
19 (commencing with Section 2000) or the Osteopathic Initiative Act
20 shall send a complete report to the Medical Board of California or
21 the Osteopathic Medical Board of California, as appropriate, as to
22 any settlement over thirty thousand dollars (\$30,000); or
23 arbitration award of any amount; or civil judgment of any amount,
24 whether or not vacated by a settlement after entry of the judgment,
25 that was not reversed on appeal; of a claim or action for damages
26 for death or personal injury caused by that person's negligence,
27 error, or omission in practice, or rendering of unauthorized
28 professional services. The report shall be sent within 30 days after
29 the written settlement agreement has been reduced to writing and
30 signed by all parties thereto or within 30 days after service of the
31 arbitration award on the parties or within 30 days after the date of
32 entry of the civil judgment.

33 (c) Every insurer providing professional liability insurance to
34 a person licensed pursuant to Chapter 13 (commencing with
35 Section 4980) or Chapter 14 (commencing with Section 4990)
36 shall send a complete report to the Board of Behavioral Science
37 Examiners as to any settlement or arbitration award over ten
38 thousand dollars (\$10,000) of a claim or action for damages for
39 death or personal injury caused by that person's negligence, error,
40 or omission in practice, or rendering of unauthorized professional



1 services. The report shall be sent within 30 days after the written
2 settlement agreement has been reduced to writing and signed by
3 all parties thereto or within 30 days after service of the arbitration
4 award on the parties.

5 (d) Every insurer providing professional liability insurance to
6 a dentist licensed pursuant to Chapter 4 (commencing with Section
7 1600) shall send a complete report to the Dental Board of
8 California as to any settlement or arbitration award over ten
9 thousand dollars (\$10,000) of a claim or action for damages for
10 death or personal injury caused by that person's negligence, error,
11 or omission in practice, or rendering of unauthorized professional
12 services. The report shall be sent within 30 days after the written
13 settlement agreement has been reduced to writing and signed by
14 all parties thereto or within 30 days after service of the arbitration
15 award on the parties.

16 (e) Notwithstanding any other provision of law, no insurer shall
17 enter into a settlement without the written consent of the insured,
18 except that this prohibition shall not void any settlement entered
19 into without that written consent. The requirement of written
20 consent shall only be waived by both the insured and the insurer.
21 This section shall only apply to a settlement on a policy of
22 insurance executed or renewed on or after January 1, 1971.

23 SEC. 3. Section 802.2 is added to the Business and
24 Professions Code, to read:

25 802.2. An attorney at the time of filing a civil complaint or
26 demand for arbitration seeking damages for death or personal
27 injury caused by the alleged negligence, error, or omission in
28 practice, or rendering of unauthorized professional services by a
29 physician and surgeon licensed pursuant to Chapter 5
30 (commencing with Section 2000) shall serve a copy of the
31 complaint or demand upon the Medical Board of California. The
32 board shall treat the complaint or demand as a complaint from a
33 patient.

34 SEC. 4. Section 803.1 of the Business and Professions Code
35 is amended to read:

36 803.1. (a) Notwithstanding any other provision of law, the
37 Medical Board of California and the California Board of Podiatric
38 Medicine shall disclose to an inquiring member of the public
39 information regarding ~~the status of the license of a licensee and any~~
40 enforcement actions taken against a licensee by either board or by

1 another state or jurisdiction, including, ~~but not limited to,~~ all of the
2 following:

3 (1) Temporary restraining orders issued.

4 (2) Interim suspension orders issued.

5 ~~(3) Limitations on practice ordered by the board.~~

6 (3) *Revocations, suspensions, or probations ordered by the*
7 *board, including limitations on practice made part of a*
8 *probationary order.*

9 (4) Public letters of reprimand issued.

10 (5) Infractions, citations, or fines imposed.

11 ~~(6)~~

12 (b) *Notwithstanding any other provision of law, in addition to*
13 *the information provided in subdivision (a), the Medical Board of*
14 *California and the California Board of Podiatric Medicine shall*
15 *disclose to an inquiring member of the public all of the following:*

16 (1) Misdemeanor convictions, if substantially related to the
17 practice of medicine.

18 ~~(7)~~

19 (2) Civil judgments in any amount, whether or not vacated by
20 a settlement after entry of the judgment, that were not reversed on
21 appeal; and arbitration awards in any amount; of a claim or action
22 for damages for death or personal injury caused by the physician
23 and surgeon's negligence, error, or omission in practice, or
24 rendering of unauthorized professional services. ~~The~~

25 (3) ~~The number and amounts of settlements of these sorts~~ *types*
26 *of claims or actions referenced in paragraph (2) in the amount of*
27 *thirty thousand dollars (\$30,000) or more in the possession,*
28 *custody, or control of the board shall be disclosed throughout the*
29 *term that the licensee holds a certificate to practice, accompanied*
30 *by the average number of settlements and average amounts for the*
31 ~~physician's or~~ *physician and surgeon's specialty or subspecialty*
32 *and disclaimers pursuant to subdivision (c) explaining the reasons*
33 *that a physician or and surgeon might settle a claim of this nature*
34 *without being at fault.*

35 ~~(8)~~

36 (4) Current American Board of Medical Speciality
37 certification or board equivalent as certified by the Medical Board
38 of California or the California Board of Podiatric Medicine.

39 ~~(9)~~

40 (5) Approved postgraduate training.

(10)

(6) Completed investigations that have been referred to the Attorney General for the filing of an accusation, unless it has been rejected by the Attorney General.

~~(b) Notwithstanding any other provision of law, the Medical Board of California and the California Board of Podiatric Medicine shall disclose to an inquiring member of the public information regarding the status of the license of a licensee that is deemed necessary by the board for the protection and education of the public including, but not limited to, information required to be disclosed pursuant to subdivision (a), any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for a medical disciplinary cause or reason, and any enforcement actions taken against a licensee by the board or by another state or jurisdiction.~~

(7) *Status of the license of a licensee.*

(8) *Any summaries of hospital disciplinary actions that result in the termination or revocation of a licensee's staff privileges for medical disciplinary cause or reason.*

(c) The Medical Board of California and the California Board of Podiatric Medicine may formulate appropriate disclaimers or explanatory statements to be included with any information released, and may, by regulation, establish categories of information that need not be disclosed to an inquiring member of the public because that information is unreliable or not sufficiently related to the licensee's professional practice.

(d) *The Medical Board of California and the California Board of Podiatric Medicine shall, by regulation, establish time limitations, as the boards deem appropriate, for the disclosure of information as provided herein, and shall develop standard terminology that accurately describes the different types of disciplinary filings and actions to take against a licensee as described in paragraphs (1) to (5), inclusive, of subdivision (a). In providing the public with information about a licensee via the Internet pursuant to Section 2027, the Medical Board of California and the California Board of Podiatric Medicine shall not use the terms "enforcement," "discipline," or similar language implying a sanction unless the physician and surgeon has been the subject of one of the actions described in paragraphs (1) to (5), inclusive, of subdivision (a).*

1 (e) *The Medical Board of California and the California Board*
2 *of Podiatric Medicine shall provide each licensee with a copy of*
3 *the text of any proposed public disclosure authorized by this*
4 *section prior to release of the disclosure to the public. The licensee*
5 *shall have 15 working days to correct factual inaccuracies. If the*
6 *board disagrees with the licensee's corrections, the licensee shall*
7 *have the right to submit a written statement which shall be*
8 *disseminated with any public disclosure of information.*

9 (f) Nothing in this section shall be construed as affecting in any
10 manner the rights provided under Chapter 3.5 (commencing with
11 Section 6250) of Division 7 of Title 1 of the Government Code.

12 ~~SEC. 5.—Section 805 of the Business and Professions Code is~~
13 ~~amended to read:~~

14 ~~805.—(a) As used in this section, the following terms have the~~
15 ~~following definitions:~~

16 ~~(1) “Peer review body” includes:~~

17 ~~(A) A medical or professional staff of any health care facility~~
18 ~~or clinic licensed under Division 2 (commencing with Section~~
19 ~~1200) of the Health and Safety Code or of a facility certified to~~
20 ~~participate in the federal Medicare program as an ambulatory~~
21 ~~surgical center.~~

22 ~~(B) A health care service plan registered under Chapter 2.2~~
23 ~~(commencing with Section 1340) of Division 2 of the Health and~~
24 ~~Safety Code or a disability insurer that contracts with licentiates~~
25 ~~to provide services at alternative rates of payment pursuant to~~
26 ~~Section 10133 of the Insurance Code.~~

27 ~~(C) Any medical, psychological, marriage and family therapy,~~
28 ~~social work, dental, or podiatric professional society having as~~
29 ~~members at least 25 percent of the eligible licentiates in the area~~
30 ~~in which it functions (which must include at least one county),~~
31 ~~which is not organized for profit and which has been determined~~
32 ~~to be exempt from taxes pursuant to Section 23701 of the Revenue~~
33 ~~and Taxation Code.~~

34 ~~(D) A committee organized by any entity consisting of or~~
35 ~~employing more than 25 licentiates of the same class that functions~~
36 ~~for the purpose of reviewing the quality of professional care~~
37 ~~provided by members or employees of that entity.~~

38 ~~(2) “Licentiate” means a physician and surgeon, podiatrist,~~
39 ~~clinical psychologist, marriage and family therapist, clinical social~~

1 worker, physician assistant, or dentist. “Licentiate” also includes
2 a person authorized to practice medicine pursuant to Section 2113.

3 (3) “Agency” means the relevant state licensing agency
4 having regulatory jurisdiction over the licentiates listed in
5 paragraph (2).

6 (4) “Staff privileges” means any arrangement under which a
7 licentiate is allowed to practice in or provide care for patients in
8 a health facility. Those arrangements shall include, but are not
9 limited to, full staff privileges, active staff privileges, limited staff
10 privileges, auxiliary staff privileges, provisional staff privileges,
11 temporary staff privileges, courtesy staff privileges, locum tenens
12 arrangements, and contractual arrangements to provide
13 professional services, including, but not limited to, arrangements
14 to provide outpatient services.

15 (5) “Denial or termination of staff privileges, membership, or
16 employment” includes failure or refusal to renew a contract or to
17 renew, extend, or reestablish any staff privileges, if the action is
18 based on medical disciplinary cause or reason.

19 (6) “Medical disciplinary cause or reason” means that aspect
20 of a licentiate’s competence or professional conduct which is
21 reasonably likely to be detrimental to patient safety or to the
22 delivery of patient care.

23 (7) “805 report” means the written report required under
24 subdivision (b).

25 (b) The chief of staff of a medical or professional staff or other
26 chief executive officer, medical director, or administrator of any
27 peer review body and the chief executive officer or administrator
28 of any licensed health care facility or clinic shall file an 805 report
29 with the relevant agency within 15 days after the effective date of
30 any of the following which take place as a result of an action of a
31 peer review body:

32 (1) A licentiate’s application for staff privileges or membership
33 is denied or rejected for a medical disciplinary cause or reason.

34 (2) A licentiate’s membership, staff privileges, or employment
35 is terminated or revoked for a medical disciplinary cause or reason.

36 (3) Restrictions are imposed, or voluntarily accepted, on staff
37 privileges, membership, or employment for a cumulative total of
38 30 days or more for any 12-month period, for a medical
39 disciplinary cause or reason.

~~(c) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body and the chief executive officer or administrator of any licensed health care facility or clinic shall file an 805 report with the relevant agency within 15 days after any of the following takes place after notice of either an investigation or the impending denial or rejection of the application for a medical disciplinary cause or reason:~~

~~(1) Resignation or leave of absence from membership, staff, or employment.~~

~~(2) The withdrawal or abandonment of a licentiate's application for staff privileges or membership.~~

~~(3) The request for renewal of those privileges or membership is withdrawn or abandoned.~~

~~(d) For purposes of filing an 805 report, the signature of at least one of the individuals indicated in subdivision (b) or (c) on the completed form shall constitute compliance with the requirement to file the report.~~

~~(e) An 805 report shall also be filed within 15 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.~~

~~(f) A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.~~

~~The information to be reported in an 805 report shall include the name and license number of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.~~

~~A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.~~

~~If another peer review body is required to file an 805 report, a health care service plan is not required to file a separate report with~~

respect to action attributable to the same medical disciplinary cause or reason. If the Medical Board of California or a licensing agency of another state revokes or suspends, without a stay, the license of a physician, a peer review body is not required to file an 805 report when it takes an action as a result of the revocation or suspension.

(g) The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and Sections 803.1 and 2027, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976.

(h) The Medical Board of California, the Osteopathic Medical Board of California, and the Dental Board of California shall disclose reports as required by Section 805.5.

(i) An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(j) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(k) A willful failure to file an 805 report by any person who is designated or otherwise required by law to file an 805 report is punishable by a fine not to exceed one hundred thousand dollars (\$100,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. A violation of this subdivision may constitute unprofessional conduct by the licensee. A person who is alleged to have violated this subdivision may assert any defense available at law. As used in this subdivision, "willful" means a voluntary and intentional violation of a known legal duty.

(l) Except as otherwise provided in subdivision (k), any failure by the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person

~~who is designated or otherwise required by law to file an 805 report, shall be punishable by a fine that under no circumstances shall exceed fifty thousand dollars (\$50,000) per violation. The fine may be imposed in any civil or administrative action or proceeding brought by or on behalf of any agency having regulatory jurisdiction over the person regarding whom the report was or should have been filed. If the person who is designated or otherwise required to file an 805 report is a licensed physician and surgeon, the action or proceeding shall be brought by the Medical Board of California. The fine shall be paid to that agency but not expended until appropriated by the Legislature. The amount of the fine imposed, not exceeding fifty thousand dollars (\$50,000) per violation, shall be proportional to the severity of the failure to report and shall differ based upon written findings, including whether the failure to file caused harm to a patient or created a risk to patient safety; whether the administrator of any peer review body, the chief executive officer or administrator of any health care facility, or any person who is designated or otherwise required by law to file an 805 report exercised due diligence despite the failure to file or whether they knew or should have known that an 805 report would not be filed; and whether there has been a prior failure to file an 805 report. The amount of fine imposed may also differ based on whether a health care facility is a small or rural hospital as defined in Section 124840 of the Health and Safety Code.~~

~~(m) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a disability insurer that negotiates and enters into a contract with licentiates to provide services at alternative rates of payment pursuant to Section 10133 of the Insurance Code, when determining participation with the plan or insurer, shall evaluate, on a case-by-case basis, licentiates who are the subject of an 805 report, and not automatically exclude or deselect these licentiates.~~

~~SEC. 6.~~

~~SEC. 5.~~ Chapter 1.6 (commencing with Section 920) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 1.6. HEALTH CARE PROFESSIONAL DISASTER
RESPONSE ACT

920. This chapter shall be known and may be cited as the Health Care Professional Disaster Response Act.

921. (a) The Legislature finds and declares the following:

(1) In times of national or state disasters, a shortage of qualified health care practitioners may exist in areas throughout the state where they are desperately required to respond to public health emergencies.

(2) Health care practitioners with lapsed or inactive licenses could potentially serve in those areas where a shortage of qualified health care practitioners exists, if licensing requirements were streamlined and fees curtailed.

(b) It is, therefore, the intent of the Legislature to address these matters through the provisions of the Health Care Professional Disaster Response Act.

922. (a) A physician and surgeon who satisfies the requirements of Section 2439 but whose license has been expired for less than five years may be licensed under this chapter.

(b) To be licensed under this chapter, a physician and surgeon shall complete an application, on a form prescribed by the Medical Board of California, and submit it to the board, along with the following:

(1) Documentation that the applicant has completed the continuing education requirements described in Article 10 (commencing with Section 2190) of Chapter 5 for each renewal period during which the applicant was not licensed.

(2) A complete set of fingerprints as required by Sections 144 and 2082, together with the fee required for processing those fingerprints.

(c) An applicant shall not be required to pay any licensing, delinquency, or penalty fees for the issuance of a license under this chapter.

~~SEC. 7.~~

SEC. 6. Section 2001 of the Business and Professions Code is amended to read:

2001. There is in the Department of Consumer Affairs a Medical Board of California that consists of 21 members, nine of whom shall be public members.

1 The Governor shall appoint 19 members to the board, subject to
2 confirmation by the Senate, seven of whom shall be public
3 members. The Senate Rules Committee and the Speaker of the
4 Assembly shall each appoint a public member, and their initial
5 appointment shall be made to fill, respectively, the first and second
6 public member vacancies that occur on or after January 1, 1983.

7 This section shall become inoperative on July 1, 2005, and, as
8 of January 1, 2006, is repealed, unless a later enacted statute,
9 which becomes effective on or before January 1, 2006, deletes or
10 extends the dates on which it becomes inoperative and is repealed.
11 The repeal of this section renders the board subject to the review
12 required by Division 1.2 (commencing with Section 473).

13 ~~SEC. 8.~~

14 *SEC. 7.* Section 2008 of the Business and Professions Code is
15 amended to read:

16 2008. The Division of Medical Quality shall consist of 14
17 members of the board, six of whom shall be public members. The
18 Division of Licensing shall consist of seven members, three of
19 whom shall be public members.

20 Each member appointed to the board shall be assigned by the
21 Governor to a specific division, except that, commencing July 1,
22 1994, those members of the board who prior to July 1, 1994, were
23 assigned to the Division of Allied Health Professions shall be
24 members of the Division of Medical Quality.

25 ~~SEC. 9.~~

26 *SEC. 8.* Section 2013 of the Business and Professions Code is
27 amended to read:

28 2013. (a) The board and each division may convene from
29 time to time as deemed necessary by the board or a division.

30 (b) Eight members of the Division of Medical Quality, and four
31 members of the Division of Licensing shall constitute a quorum for
32 the transaction of business at any division meeting. Four members
33 of a panel of the Division of Medical Quality shall constitute a
34 quorum for the transaction of business at any meeting of the panel.
35 Eleven members shall constitute a quorum for the transaction of
36 business at any board meeting.

37 (c) It shall require the affirmative vote of a majority of those
38 members present at a division, panel, or board meeting, those
39 members constituting at least a quorum, to pass any motion,
40 resolution, or measure. A decision by a panel of the Division of

1 Medical Quality to discipline a physician and surgeon shall require
2 an affirmative vote, at a meeting or by mail, of a majority of the
3 members of that panel; except that a decision to revoke the
4 certificate of a physician and surgeon shall require the affirmative
5 vote of four members of that panel.

6 ~~SEC. 10.~~

7 *SEC. 9.* Section 2020 of the Business and Professions Code is
8 amended to read:

9 2020. The board may employ an executive director exempt
10 from the provisions of the Civil Service Act and may also employ
11 investigators, legal counsel, medical consultants, and other
12 assistance as it may deem necessary to carry into effect this
13 chapter. The board may fix the compensation to be paid for
14 services subject to the provisions of applicable state laws and
15 regulations and may incur other expenses as it may deem
16 necessary. Investigators employed by the board shall be provided
17 special training in investigating medical practice activities.

18 The Attorney General shall act as legal counsel for the board for
19 any judicial and administrative proceedings and his or her services
20 shall be a charge against it.

21 This section shall become inoperative on July 1, 2005, and, as
22 of January 1, 2006, is repealed, unless a later enacted statute,
23 which becomes effective on or before January 1, 2006, deletes or
24 extends the dates on which it becomes inoperative and is repealed.

25 ~~SEC. 11.~~

26 *SEC. 10.* Section 2026 of the Business and Professions Code
27 is repealed.

28 ~~SEC. 12.~~

29 *SEC. 11.* Section 2027 of the Business and Professions Code
30 is amended to read:

31 2027. (a) On or after July 1, 2001, unless otherwise
32 authorized by the Department of Information Technology
33 pursuant to Executive Order D-3-99, the board shall post on the
34 Internet the following information regarding licensed physicians
35 and surgeons:

36 (1) With regard to the status of the license, whether or not the
37 licensee is in good standing, subject to a temporary restraining
38 order (TRO), ~~or~~ subject to an interim suspension order (ISO), *or*
39 *subject to any of the enforcement actions set forth in Section 803.1.*

(2) With regard to prior discipline, whether or not the licensee has been subject to discipline by the board of another state or jurisdiction, *as described in Section 803.1.*

(3) Any felony convictions reported to the board after January 3, 1991.

(4) All current accusations filed by the Attorney General, *including those accusations that are on appeal. For purposes of this paragraph, "current accusation" shall mean an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the Medical Board of California unless an appeal of that decision is pending.*

(5) Any malpractice judgment or arbitration award reported to the board after January 1, 1993.

(6) Any hospital disciplinary actions that resulted in the termination or revocation of a licensee's hospital staff privileges for a medical disciplinary cause or reason.

(7) Appropriate disclaimers and explanatory statements to accompany the above information, *including an explanation of what types of information are not disclosed. These disclaimers and statements shall be developed by the board and shall be adopted by regulation.*

(8) Any information disclosed pursuant to Section 803.1.

(b) The board shall provide links to other Web sites on the Internet that provide information on board certifications that meet the requirements of subdivision (b) of Section 651. The board may provide links to other Web sites on the Internet that provide information on health care service plans, health insurers, hospitals, or other facilities. The board may also provide links to any other sites that would provide information on the affiliations of licensed physicians and surgeons.

~~SEC. 13.~~

SEC. 12. Section 2052 of the Business and Professions Code is amended to read:

2052. (a) Notwithstanding Section 146, any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental

condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter, or without being authorized to perform the act pursuant to a certificate obtained in accordance with some other provision of law is guilty of a public offense, punishable by a fine not exceeding ten thousand dollars (\$10,000), or by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by both the fine and either imprisonment.

(b) Any person who conspires with or aids or abets another to commit any act described in subdivision (a) is guilty of a public offense, subject to the punishment described in that subdivision.

~~SEC. 14.~~

SEC. 13. Section 2135.5 is added to the Business and Professions Code, to read:

2135.5. ~~The~~ Upon review and recommendation, the Division of Licensing may determine that an applicant for a physician and surgeon's certificate has satisfied *the medical curriculum requirements of Section 2089*, the clinical instruction requirements of Sections 2089.5 and 2089.7, *and the examination requirements of Section 2170* if the applicant meets all of the following criteria:

(a) He or she holds an unlimited and unrestricted license as a physician and surgeon in another state.

(b) He or she has been licensed by that state to practice as a physician and surgeon ~~for 10 or more years~~.

(c) He or she is certified by a specialty board ~~approved by that~~ is a member board of the American Board of Medical Specialties.

(d) *He or she has not been the subject of a denial of licensure under Section 480.*

(e) *He or she has not graduated from a school that has been disapproved by the division.*

~~SEC. 15.~~

SEC. 14. Section 2220.05 is added to the Business and Professions Code, to read:

2220.05. (a) *In order to ensure that its resources are maximized for the protection of the public, the Medical Board of California shall prioritize its investigative and prosecutorial resources to ensure that physicians representing the greatest threat of harm are identified and disciplined expeditiously. Cases involving any of the following allegations shall be handled on a*

1 *priority basis, as follows, with the highest priority being given to*
2 *cases in the first paragraph:*

3 *(1) Gross negligence, incompetence, or repeated negligent acts*
4 *that involve death or serious bodily injury to one or more patients,*
5 *such that the physician represents a danger to the public.*

6 *(2) Drug or alcohol abuse by a physician involving death or*
7 *serious bodily injury to a patient.*

8 *(3) Repeated acts of clearly excessive prescribing, furnishing,*
9 *or administering of controlled substances, or repeated acts of*
10 *prescribing, dispensing, or furnishing of controlled substances*
11 *without a good faith prior examination of the patient and medical*
12 *reason therefore. However, in no event shall physicians*
13 *prescribing, furnishing, or administering controlled substances*
14 *for intractable pain consistent with lawful prescribing, including,*
15 *but not limited to, the Intractable Treatment Act, be prosecuted for*
16 *excessive prescribing and prompt review of the applicability of that*
17 *act shall be made in any complaint that may implicate the act.*

18 *(4) Sexual misconduct with one or more patients.*

19 *(b) The Medical Board of California shall indicate in its annual*
20 *report mandated by Section 2312 which of its temporary*
21 *restraining orders, interim suspension orders, and disciplinary*
22 *actions involved a case of a type specified in subdivision (a).*

23 *SEC. 15. Section 2220.08 is added to the Business and*
24 *Professions Code, to read:*

25 *2220.08. Any complaint determined to involve quality of care,*
26 *before referral to a field office for further investigation shall meet*
27 *the following criteria:*

28 *(a) It shall be reviewed by one or more expert with the pertinent*
29 *education, training, and expertise to evaluate the specific clinical*
30 *issues involved, at least one of whom practices in a practice setting*
31 *similar to that of the physician who is the subject of the complaint.*

32 *(b) It shall include the review of relevant patient records, the*
33 *statement or explanation of treatment by the physician, any*
34 *additional expert testimony or literature suggested by the*
35 *physician, and any additional facts or information that may assist*
36 *or be requested by the expert reviewers in the determination of*
37 *quality care.*

38 *SEC. 16. Section 2220.1 is added to the Business and*
39 *Professions Code, to read:*

2220.1. (a) (1) The director shall appoint a Medical Board of California Enforcement Program Monitor prior to March 31, 2003. The director may retain a person for this position by a personal services contract, the Legislature finding, pursuant to Section 19130 of the Government Code, that this is a new state function.

(2) The director shall supervise the enforcement program monitor and may terminate or dismiss him or her from this position.

(b) The director shall advertise the availability of this position. The requirements for this position include ~~prior experience as an enforcement monitor~~, experience in conducting investigations, and familiarity with state laws, rules, and procedures pertaining to the board and with relevant administrative procedures.

(c) (1) The enforcement program monitor shall monitor and evaluate the disciplinary system and procedures of the board, making as his or her highest priority the reform and reengineering of the board's enforcement program and operations, and the improvement of the overall efficiency of the board's disciplinary system.

(2) This monitoring duty shall be performed on a continuing basis for a period not exceeding two years from the date of the enforcement program monitor's appointment and shall include, but not be limited to, improving the quality and consistency of complaint processing and investigation, reducing the timeframes for completing complaint processing and investigation, reducing any complaint backlog, *assessing the relative value to the board of various sources of complaints or information available to the board about licensees in identifying licensees who practice substandard care causing serious patient harm*, assuring consistency in the application of sanctions or discipline imposed on licensees, and shall include the following areas: the accurate and consistent implementation of the laws and rules affecting discipline, ~~staff~~ *appropriate application of investigation and prosecution priorities, particularly with respect to priority cases, as defined in Section 2220.05, board and Attorney General staff, defense bar, licensee, and patients'* concerns regarding disciplinary matters or procedures, appropriate utilization of licensed professionals to investigate complaints, and the board's cooperation with other governmental entities charged with

1 enforcing related laws and regulations regarding physicians and
2 surgeons. The enforcement program monitor shall also evaluate
3 the effectiveness and efficiency of the board's diversion program
4 and make recommendations regarding the continuation of the
5 program and any changes or reforms required to assure physicians
6 and surgeons participating in the program are appropriately
7 monitored and the public is protected from physicians and
8 surgeons who are impaired due to alcohol or drug abuse or mental
9 or physical illness.

10 (3) The enforcement program monitor shall exercise no
11 authority over the board's discipline operations or staff; however,
12 the board and its staff shall cooperate with him or her, and the
13 board shall provide data, information, and case files as requested
14 by the enforcement program monitor to perform all of his or her
15 duties.

16 (4) The director shall assist the enforcement program monitor
17 in the performance of his or her duties, and the enforcement
18 program monitor shall have the same investigative authority as the
19 director.

20 (d) The enforcement program monitor shall submit an initial
21 written report of his or her findings and conclusions to the board,
22 the department, and the Legislature no later than October 1, 2003,
23 and every six months thereafter, and be available to make oral
24 reports to each, if requested to do so. *The initial report shall*
25 *include an analysis of the sources of information that resulted in*
26 *each disciplinary action imposed in the last five years involving*
27 *priority cases, as defined in Section 2220.05.* The enforcement
28 program monitor may also provide additional information to
29 either the department or the Legislature at his or her discretion or
30 at the request of either the department or the Legislature. The
31 enforcement program monitor shall make his or her reports
32 available to the public or the media. The enforcement program
33 monitor shall make every effort to provide the board with an
34 opportunity to reply to any facts, findings, issues, or conclusions
35 in his or her reports with which the board may disagree.

36 (e) The board shall reimburse the department for all of the costs
37 associated with the employment of an enforcement program
38 monitor.

39 (f) This section becomes inoperative on March 31, 2005, and
40 as of January 1, 2006, is repealed, unless a later enacted statute,

1 that is enacted before January 1, 2006, deletes or extends the dates
2 on which it becomes inoperative and is repealed.

3 ~~SEC. 16.~~

4 *SEC. 17. Section 2227 of the Business and Professions Code*
5 *is amended to read:*

6 2227. (a) A licensee whose matter has been heard by an
7 administrative law judge of the Medical Quality Hearing Panel as
8 designated in Section 11371 of the Government Code, or whose
9 default has been entered, and who is found guilty, *or who has*
10 *entered into a stipulation for disciplinary action with the division,*
11 may, in accordance with the provisions of this chapter:

12 (1) Have his or her license revoked upon order of the division.

13 (2) Have his or her right to practice suspended for a period not
14 to exceed one year upon order of the division.

15 (3) Be placed on probation and be required to pay the costs of
16 probation monitoring upon order of the division.

17 (4) Be publicly reprimanded by the division.

18 (5) Have any other action taken in relation to discipline *as part*
19 *of an order of probation* as the division or an administrative law
20 judge may deem proper.

21 (b) Any matter heard pursuant to subdivision (a), except for
22 warning letters, medical review or advisory conferences,
23 *professional competency examinations and cost reimbursement*
24 *associated therewith that are agreed to with the division and*
25 *successfully completed by the licensee,* or other matters made
26 confidential or privileged by existing law, is deemed public, and
27 shall be made available to the public by the board *pursuant to*
28 *Section 803.1.*

29 *SEC. 18. Section 2234 of the Business and Professions Code*
30 *is amended to read:*

31 2234. The Division of Medical Quality shall take action
32 against any licensee who is charged with unprofessional conduct.
33 In addition to other provisions of this article, unprofessional
34 conduct includes, but is not limited to, the following:

35 (a) Violating or attempting to violate, directly or indirectly, or
36 assisting in or abetting the violation of, or conspiring to violate,
37 any provision of this chapter.

38 (b) Gross negligence.

39 (c) Repeated negligent acts. *To be repeated, the negligent acts*
40 *shall have resulted from separate and distinct diagnosis or*

1 *treatment decisions. An initial negligent diagnosis that is followed*
2 *by a course of treatment that is medically appropriate based on*
3 *that diagnosis constitutes a single negligent act until a failure to*
4 *reevaluate or change that course of treatment constitutes a*
5 *departure from the standard of practice.*

6 (d) Incompetence.

7 (e) The commission of any act involving dishonesty or
8 corruption which is substantially related to the qualifications,
9 functions, or duties of a physician and surgeon.

10 (f) Any action or conduct which would have warranted the
11 denial of a certificate.

12 (g) The practice of medicine from this state into another state
13 or country without meeting the legal requirements of that state or
14 country for the practice of medicine. Section 2314 shall not apply
15 to this subdivision. This subdivision shall become operative upon
16 the implementation of the proposed registration program
17 described in Section 2052.5.

18 *SEC. 19.* Section 2246 is added to the Business and
19 Professions Code, to read:

20 2246. Any proposed decision or decision issued under this
21 article, that contains any finding of fact that the licensee engaged
22 in any act of sexual contact, as defined in Section 729, with a
23 patient, or has committed an act or been convicted of a sex offense
24 as defined in Section 44010 of the Education Code, shall contain
25 an order of revocation. The revocation shall not be stayed by the
26 administrative law judge.

27 ~~SEC. 17.~~

28 *SEC. 20.* Section 2350 of the Business and Professions Code
29 is amended to read:

30 2350. (a) The division shall establish criteria for the
31 acceptance, denial, or termination of physicians and surgeons in a
32 diversion program. Only those physicians and surgeons who have
33 voluntarily requested diversion treatment and supervision by a
34 committee shall participate in a program.

35 (b) A physician and surgeon under current investigation by the
36 division may request entry into the diversion program by
37 contacting the Chief or Deputy Chief of Enforcement of the
38 Medical Board of California. The Chief or Deputy Chief of
39 Enforcement of the Medical Board of California shall refer the
40 physician and surgeon who requests participation in the diversion

1 program to a committee for evaluation of eligibility, even if the
2 physician and surgeon is currently under investigation by the
3 division, as long as the investigation is based primarily on *mental*
4 *illness or on* the self-administration of drugs or alcohol under
5 Section 2239, or the illegal possession, prescription, or nonviolent
6 procurement of drugs for self-administration, and does not involve
7 actual harm to the public or his or her patients. Prior to referring
8 a physician and surgeon to the diversion program, the division may
9 require any physician and surgeon who requests participation
10 under those circumstances, or if there are other violations, to
11 execute a statement of understanding in which the physician and
12 surgeon agrees that violations of this chapter, or other statutes that
13 would otherwise be the basis for discipline, may nevertheless be
14 prosecuted should the physician and surgeon be terminated from
15 the program for failure to comply with program requirements.

16 (c) Neither acceptance into nor participation in the diversion
17 program shall preclude the division from investigating or
18 continuing to investigate any physician and surgeon for any
19 unprofessional conduct committed before, during, or after
20 participation in the diversion program.

21 (d) Neither acceptance into nor participation in the diversion
22 program shall preclude the division from taking disciplinary
23 action or continuing to take disciplinary action against any
24 physician and surgeon for any unprofessional conduct committed
25 before, during, or after participation in the diversion program,
26 except for conduct that resulted in the physician and surgeon's
27 referral to the diversion program.

28 (e) Any physician and surgeon terminated from the diversion
29 program for failure to comply with program requirements is
30 subject to disciplinary action by the division for acts committed
31 before, during, and after participation in the diversion program.
32 The division shall not be precluded from taking disciplinary action
33 for violations identified in the statement of understanding
34 described in subdivision (b) if a physician and surgeon is
35 terminated from the diversion program for failure to comply with
36 program requirements. The termination of a physician and
37 surgeon who has been referred to the diversion program pursuant
38 to subdivision (b) shall be reported by the program manager to the
39 division.

(f) Nothing in this section shall preclude a physician and surgeon who is not the subject of a current investigation from self-referring to the diversion program on a confidential basis. Subdivision (b) shall not apply to a physician and surgeon who applies for the diversion program in accordance with this subdivision.

(g) Any physician and surgeon who successfully completes the diversion program shall not be subject to any disciplinary actions by the board for any alleged violation that resulted in referral to the diversion program. Successful completion shall be determined by the program manager but shall include, at a minimum, three years during which the physician and surgeon has remained free from the use of drugs or alcohol and adopted a lifestyle to maintain a state of sobriety. *With respect to mental illness, successful completion shall be determined by the program manager but shall instead include, at a minimum, three years of mental health stability and treatment compliance and adoption of a lifestyle designed to maintain a state of mental health stability.*

(h) The division shall establish criteria for the selection of ~~administrative~~ *evaluating* physicians and surgeons or *psychologists* who shall examine physicians and surgeons requesting diversion under a program. Any reports made under this article by the ~~administrative~~ *evaluating* physician and surgeon or *psychologist* shall constitute an exception to Section 2263 and to Sections 994 ~~and 995~~, 995, 1014, and 1015 of the Evidence Code.

(i) The division shall require biannual reports from each committee which shall include, but not be limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance, and a cost analysis of the program. The Bureau of Medical Statistics may assist the committees in the preparation of the reports.

(j) Each physician and surgeon shall sign an agreement that diversion records may be used in disciplinary or criminal proceedings if the physician and surgeon is terminated from the diversion program and one of the following conditions exists:

(1) His or her participation in the diversion program is a condition of probation.

(2) He or she has disciplinary action pending or was under investigation at the time of entering the diversion program.

1 (3) A diversion evaluation committee determines that he or she
2 presents a threat to the public health or safety.

3 This agreement shall also authorize the diversion program to
4 exchange information about the physician and surgeon's recovery
5 with a hospital well-being committee or monitor and with the
6 board's licensing program, if appropriate, and to acknowledge,
7 with the physician and surgeon's approval, that he or she is
8 participating in the diversion program. ~~In addition, this agreement~~
9 ~~shall authorize the diversion program to order the physician and~~
10 ~~surgeon to be examined by one or more physicians and surgeons~~
11 ~~or psychologists designated by the diversion program. The failure~~
12 ~~of a physician and surgeon to comply with this order constitutes~~
13 ~~grounds for the suspension or revocation of his or her certificate.~~
14 Nothing in this section shall be construed to allow release of
15 alcohol or drug treatment records in violation of federal or state
16 law.

17 ~~SEC. 18.~~

18 *SEC. 21.* Section 2507 of the Business and Professions Code
19 is amended to read:

20 2507. (a) The license to practice midwifery authorizes the
21 holder, under the supervision of a licensed physician and surgeon,
22 to attend cases of normal childbirth and to provide prenatal,
23 intrapartum, and postpartum care, including family-planning care,
24 for the mother, and immediate care for the newborn.

25 (b) As used in this article, the practice of midwifery constitutes
26 the furthering or undertaking by any licensed midwife, under the
27 supervision of a licensed physician and surgeon who has current
28 practice or training in obstetrics, to assist a woman in childbirth so
29 long as progress meets criteria accepted as normal. All
30 complications shall be referred to a physician and surgeon
31 immediately. The practice of midwifery does not include the
32 assisting of childbirth by any artificial, forcible, or mechanical
33 means, nor the performance of any version.

34 (c) As used in this article, "supervision" shall not be construed
35 to require the physical presence of the supervising physician and
36 surgeon.

37 (d) The ratio of licensed midwives to supervising physicians
38 and surgeons shall not be greater than four individual licensed
39 midwives to one individual supervising physician and surgeon.

1 (e) A midwife is not authorized to practice medicine and
2 surgery by this article.

3 (f) The board shall adopt in accordance with the Administrative
4 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
5 Part 1 of Division 3 of Title 2 of the Government Code),
6 emergency regulations defining the appropriate standard of care
7 and level of supervision required for the practice of midwifery.
8 The adoption of emergency regulations described in this section
9 shall be deemed an emergency and necessary for the immediate
10 preservation of public peace, health and safety, or general welfare.

11 ~~SEC. 19.~~

12 *SEC. 22.* Section 3504 of the Business and Professions Code
13 is amended to read:

14 3504. There is established a Physician Assistant Committee
15 of the Medical Board of California. The committee consists of nine
16 members.

17 This section shall become inoperative on July 1, 2007, and, as
18 of January 1, 2008, is repealed, unless a later enacted statute,
19 which becomes effective on or before January 1, 2008, deletes or
20 extends the dates on which it becomes inoperative and is repealed.
21 The repeal of this section renders the committee subject to the
22 review required by Division 1.2 (commencing with Section 473).

23 ~~SEC. 20.~~

24 *SEC. 23.* Section 3519.5 is added to the Business and
25 Professions Code, to read:

26 3519.5. (a) The committee may issue under the name of the
27 board a probationary license to an applicant subject to terms and
28 conditions, including, but not limited to, any of the following
29 conditions of probation:

30 (1) Practice limited to a supervised, structured environment
31 where the applicant's activities shall be supervised by another
32 physician assistant.

33 (2) Total or partial restrictions on issuing a drug order for
34 controlled substances.

35 (3) Continuing medical or psychiatric treatment.

36 (4) Ongoing participation in a specified rehabilitation
37 program.

38 (5) Enrollment and successful completion of a clinical training
39 program.

40 (6) Abstention from the use of alcohol or drugs.

1 (7) Restrictions against engaging in certain types of medical
2 services.

3 (8) Compliance with all provisions of this chapter.

4 (b) The committee and the board may modify or terminate the
5 terms and conditions imposed on the probationary license upon
6 receipt of a petition from the licensee.

7 (c) Enforcement and monitoring of the probationary
8 conditions shall be under the jurisdiction of the committee and the
9 board. These proceedings shall be conducted in accordance with
10 Chapter 5 (commencing with Section 11500) of Part 1 of Division
11 3 of Title 2 of the Government Code.

12 ~~SEC. 21.~~

13 *SEC. 24.* No reimbursement is required by this act pursuant
14 to Section 6 of Article XIII B of the California Constitution
15 because the only costs that may be incurred by a local agency or
16 school district will be incurred because this act creates a new crime
17 or infraction, eliminates a crime or infraction, or changes the
18 penalty for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition of a
20 crime within the meaning of Section 6 of Article XIII B of the
21 California Constitution.

